

AMENDED IN ASSEMBLY MARCH 20, 2014

AMENDED IN ASSEMBLY MARCH 10, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

## ASSEMBLY BILL

No. 1433

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**Introduced by Assembly Member Gatto**  
**(Principal coauthor: ~~Assembly Member Lowenthal~~)**  
**(Principal coauthors: Assembly Members Lowenthal and Weber)**  
**(Coauthors: Assembly Members Brown, Campos, Chávez,**  
**Quirk-Silva, Ting, Wieckowski, and Yamada)**

January 6, 2014

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An act to amend Section ~~67381~~ 67380 of, and to add Section 67383 to, the Education Code, relating to student safety, and declaring the urgency thereof, to take effect immediately.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1433, as amended, Gatto. Student safety.

Existing law, ~~the Kristin Smart Campus Safety Act of 1998~~, requires the governing board of each community college district, the Trustees of the California State University, *the Board of Directors of the Hastings College of the Law*, the Regents of the University of California, and the governing boards of ~~independent postsecondary institutions to adopt rules requiring each of their respective campuses to enter into a written agreement with local law enforcement agencies relating to Part 1 violent crimes. Existing law requires the written agreement to designate which law enforcement agency has operational responsibility for the investigation of each Part 1 violent crime and delineate the specific geographical boundaries of each agency's operational responsibility, including maps as necessary~~ *postsecondary educational institutions*

*receiving public funds for student financial assistance to require the appropriate officials at each campus to compile records of specified crimes and noncriminal acts reported to campus police, campus security personnel, campus safety authorities, or designated campus authorities. This provision does not apply to the governing boards of private postsecondary educational institutions with fewer than 1,000 students, or to campuses of public postsecondary educational systems with 1,000 or fewer students. This provision also does not apply to the California Community Colleges unless and until the Legislature makes funds available to the California Community Colleges for purposes of this provision.*

This bill would ~~provide that the written agreement shall also~~ require any report by a victim of a Part 1 violent crime, sexual assault, ~~as defined~~, or hate crime, *as defined*, received by a campus law enforcement agency to be immediately ~~reported~~ *disclosed* to the appropriate local law enforcement agency without identifying the victim, unless the victim consents to being identified. By ~~requiring creating new duties for community college districts and local law enforcement agency to enter into a written agreement in regard to a new obligation~~, this bill would impose a state-mandated local program.

This bill would provide that the governing board of each community college district, the Trustees of the California State University, the Regents of the University of California, and the governing board of each private and independent postsecondary institution shall, on or before July 1, 2015, adopt and implement written policies and procedures to ensure that any report of a Part 1 violent crime, sexual assault, or hate crime, committed on or off campus, received by any employee and made by the victim for purposes of notifying the institution or law enforcement, is immediately forwarded to the appropriate law enforcement agency, as provided. The bill would require that the report be forwarded to the appropriate law enforcement agency without identifying the victim, unless the victim consents to being identified. By imposing additional duties on community college districts, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state,

reimbursement for those costs shall be made pursuant to these statutory provisions.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1     *SECTION 1. Section 67380 of the Education Code is amended*  
2     *to read:*

3     67380. (a) The governing board of each community college  
4     district, the Trustees of the California State University, the Board  
5     of Directors of the Hastings College of the Law, the Regents of  
6     the University of California, and the governing board of any  
7     postsecondary educational institution receiving public funds for  
8     student financial assistance shall do all of the following:

9     (1) Require the appropriate officials at each campus within their  
10    respective jurisdictions to compile records of both of the following:

11    (A) All occurrences reported to campus police, campus security  
12    personnel, or campus safety authorities of, and arrests for, crimes  
13    that are committed on campus and that involve violence, hate  
14    violence, theft, destruction of property, illegal drugs, or alcohol  
15    intoxication.

16    (B) All occurrences of noncriminal acts of hate violence reported  
17    to, and for which a written report is prepared by, designated campus  
18    authorities.

19    (2) Require any written record of a noncriminal act of hate  
20    violence to include, but not be limited to, the following:

21    (A) A description of the act of hate violence.

22    (B) Victim characteristics.

23    (C) Offender characteristics, if known.

24    (3) (A) Make the information concerning the crimes compiled  
25    pursuant to subparagraph (A) of paragraph (1) available within  
26    two business days following the request of any student or employee  
27    of, or applicant for admission to, any campus within their respective  
28    jurisdictions, or to the media, unless the information is the type of  
29    information exempt from disclosure pursuant to subdivision (f) of  
30    Section 6254 of the Government Code, in which case the  
31    information is not required to be disclosed. Notwithstanding

1 paragraph (2) of subdivision (f) of Section 6254 of the Government  
2 Code, the name of a victim of any crime defined by Section 261,  
3 262, 264, 264.1, 273a, 273d, 273.5, 286, 288, 288a, 289, 422.6,  
4 422.7, or 422.75 of the Penal Code shall not be disclosed without  
5 the permission of the victim, or the victim's parent or guardian if  
6 the victim is a minor.

7 (B) For purposes of this paragraph and subparagraph (A) of  
8 paragraph (1), the campus police, campus security personnel, and  
9 campus safety authorities described in subparagraph (A) of  
10 paragraph (1) shall be included within the meaning of "state or  
11 local police agency" and "state and local law enforcement agency,"  
12 as those terms are used in subdivision (f) of Section 6254 of the  
13 Government Code.

14 (4) Require the appropriate officials at each campus within their  
15 respective jurisdictions to prepare, prominently post, and copy for  
16 distribution on request, a campus safety plan that sets forth all of  
17 the following: the availability and location of security personnel,  
18 methods for summoning assistance of security personnel, any  
19 special safeguards that have been established for particular facilities  
20 or activities, any actions taken in the preceding 18 months to  
21 increase safety, and any changes in safety precautions expected to  
22 be made during the next 24 months. For the purposes of this  
23 section, posting and distribution may be accomplished by including  
24 relevant safety information in a student handbook or brochure that  
25 is made generally available to students.

26 (5) Require the appropriate officials at each campus within their  
27 respective jurisdictions to report information compiled pursuant  
28 to paragraph (1) relating to hate violence to the governing board,  
29 trustees, board of directors, or regents, as the case may be. The  
30 governing board, trustees, board of directors, or regents, as the  
31 case may be, shall, upon collection of that information from all of  
32 the campuses within their jurisdiction, transmit a report containing  
33 a compilation of that information to the Legislative Analyst no  
34 later than January 1 of each year and shall make the report available  
35 to the general public on the Internet Web site of each respective  
36 institution. It is the intent of the Legislature that the governing  
37 board of each community college district, the Trustees of the  
38 California State University, the Board of Directors of the Hastings  
39 College of the Law, the Regents of the University of California,  
40 and the governing board of any postsecondary educational

1 institution receiving public funds for student financial assistance  
2 establish guidelines for identifying and reporting occurrences of  
3 hate violence. It is the intent of the Legislature that the guidelines  
4 established by these institutions of higher education be as consistent  
5 with each other as possible. These guidelines shall be developed  
6 in consultation with the Department of Fair Employment and  
7 Housing and the California Association of Human Rights  
8 Organizations.

9 *(6) Require any report made by a victim or an employee*  
10 *pursuant to Section 67383 of a Part 1 violent crime, sexual assault,*  
11 *or hate crime as described in Section 422.55 of the Penal Code,*  
12 *received by a campus law enforcement agency, to be immediately*  
13 *disclosed to the local law enforcement agency with which the*  
14 *institution has a written agreement pursuant to Section 67381,*  
15 *without identifying the victim, unless the victim consents to being*  
16 *identified.*

17 (b) Any person who is refused information required to be made  
18 available pursuant to subparagraph (A) of paragraph (1) of  
19 subdivision (a) may maintain a civil action for damages against  
20 any institution that refuses to provide the information, and the  
21 court shall award that person an amount not to exceed one thousand  
22 dollars (\$1,000) if the court finds that the institution refused to  
23 provide the information.

24 (c) For purposes of this section, ~~hate~~ *section:*

25 (1) *“Hate violence” means any act of physical intimidation or*  
26 *physical harassment, physical force or physical violence, or the*  
27 *threat of physical force or physical violence, that is directed against*  
28 *any person or group of persons, or the property of any person or*  
29 *group of persons because of the ethnicity, race, national origin,*  
30 *religion, sex, sexual orientation, gender identity, gender expression,*  
31 *disability, or political or religious beliefs of that person or group.*

32 (2) *“Part 1 violent crime” means willful homicide, forcible*  
33 *rape, robbery, or aggravated assault, as defined in the Uniform*  
34 *Crime Reporting Handbook of the Federal Bureau of Investigation.*

35 (3) *“Sexual assault” includes, but is not limited to, rape, forced*  
36 *sodomy, forced oral copulation, rape by a foreign object, sexual*  
37 *battery, or threat of any of these.*

38 (d) This section does not apply to the governing board of a  
39 private postsecondary educational institution receiving funds for

1 student financial assistance with a full-time enrollment of less than  
2 1,000 students.

3 (e) This section shall apply to a campus of one of the public  
4 postsecondary educational systems identified in subdivision (a)  
5 only if that campus has a full-time equivalent enrollment of more  
6 than 1,000 students.

7 (f) Notwithstanding any other provision of this section, this  
8 section shall not apply to the California Community Colleges  
9 unless and until the Legislature makes funds available to the  
10 California Community Colleges for the purposes of this section.

11 **SECTION 1.** ~~Section 67381 of the Education Code is amended~~  
12 ~~to read:~~

13 ~~67381. (a) The Legislature reaffirms that campus law~~  
14 ~~enforcement agencies have the primary authority for providing~~  
15 ~~police or security services, including the investigation of criminal~~  
16 ~~activity, to their campuses.~~

17 ~~(b) The governing board of each community college district,~~  
18 ~~the Trustees of the California State University, the Regents of the~~  
19 ~~University of California, and the governing boards of independent~~  
20 ~~postsecondary institutions, as defined, shall adopt rules requiring~~  
21 ~~each of their respective campuses to enter into written agreements~~  
22 ~~with local law enforcement agencies that clarify operational~~  
23 ~~responsibilities for investigations of Part 1 violent crimes occurring~~  
24 ~~on each campus.~~

25 ~~(c) Local law enforcement agencies shall enter into written~~  
26 ~~agreements with campus law enforcement agencies if there are~~  
27 ~~college or university campuses located in the jurisdictions of the~~  
28 ~~local law enforcement agencies.~~

29 ~~(d) Each written agreement entered into pursuant to this section~~  
30 ~~shall do all of the following:~~

31 ~~(1) Designate which law enforcement agency shall have~~  
32 ~~operational responsibility for the investigation of each Part 1~~  
33 ~~violent crime.~~

34 ~~(2) Delineate the specific geographical boundaries of each~~  
35 ~~agency's operational responsibility, including maps as necessary.~~

36 ~~(3) Require any report by a victim of a Part 1 violent crime,~~  
37 ~~sexual assault, or hate crime as described in Section 422.55 of the~~  
38 ~~Penal Code, received by a campus law enforcement agency to be~~  
39 ~~immediately reported to the appropriate local law enforcement~~

1 agency without identifying the victim, unless the victim consents  
2 to being identified.

3 (e) ~~Written agreements entered into pursuant to this section shall~~  
4 ~~be in place and available for public viewing by July 1, 1999. Each~~  
5 ~~of the entities identified in subdivision (b) shall transmit a copy~~  
6 ~~of each written agreement it has entered into pursuant to this~~  
7 ~~section, and any other information it deems pertinent to its~~  
8 ~~implementation of this section, to the Legislative Analyst on or~~  
9 ~~before September 1, 1999.~~

10 (f) ~~Each agency shall be responsible for its own costs of~~  
11 ~~investigation unless otherwise specified in a written agreement.~~

12 (g) ~~Nothing in this section shall affect existing written~~  
13 ~~agreements between campus law enforcement agencies and local~~  
14 ~~law enforcement agencies that otherwise meet the standards~~  
15 ~~contained in subdivision (d) or any existing mutual aid procedures~~  
16 ~~established pursuant to state or federal law.~~

17 (h) ~~Nothing in this section shall be construed to limit the~~  
18 ~~authority of campus law enforcement agencies to provide police~~  
19 ~~services to their campuses.~~

20 (i) ~~As used in this section, the following terms have the~~  
21 ~~following meanings:~~

22 (1) ~~“Local law enforcement agencies” means city or county law~~  
23 ~~enforcement agencies with operational responsibilities for police~~  
24 ~~services in the community in which a campus is located.~~

25 (2) ~~“Sexual assault” includes, but is not limited to, rape, forced~~  
26 ~~sodomy, forced oral copulation, rape by a foreign object, sexual~~  
27 ~~battery, or threat of sexual assault.~~

28 (3) ~~“Part 1 violent crimes” means willful homicide, forcible~~  
29 ~~rape, robbery, and aggravated assault, as defined in the Uniform~~  
30 ~~Crime Reporting Handbook of the Federal Bureau of Investigation.~~

31 (4) ~~“Independent postsecondary institutions” means institutions~~  
32 ~~with peace officers pursuant to Section 830.6 of the Penal Code~~  
33 ~~or security officers pursuant to a memorandum of understanding~~  
34 ~~as described in subdivision (b) of Section 830.7 of the Penal Code.~~

35 (j) ~~This section shall be known and may be cited as the Kristin~~  
36 ~~Smart Campus Safety Act of 1998.~~

37 (k) ~~It is the intent of the Legislature by enacting this section to~~  
38 ~~provide the public with clear information regarding the operational~~  
39 ~~responsibilities for the investigation of crimes occurring on~~  
40 ~~university and college campuses by setting minimum standards~~

1 ~~for written agreements to be entered into by campus law~~  
2 ~~enforcement agencies and local law enforcement agencies.~~

3 SEC. 2. Section 67383 is added to the Education Code, to read:

4 67383. (a) The governing board of each community college  
5 district, the Trustees of the California State University, the Regents  
6 of the University of California, and the governing board of each  
7 private and independent postsecondary institution shall, on or  
8 before July 1, 2015, adopt and implement written policies and  
9 procedures to ensure that any report of a Part 1 violent crime,  
10 sexual assault, or hate crime, committed on or off campus, received  
11 by any employee and made by the victim for purposes of notifying  
12 the institution or law enforcement, is immediately forwarded to  
13 the appropriate law enforcement agency.

14 (b) The report shall be forwarded to the appropriate law  
15 enforcement agency without identifying the victim, unless the  
16 victim consents to being identified.

17 (c) For purposes of this section, the appropriate law enforcement  
18 agency shall be a campus law enforcement agency if one has been  
19 established on the campus where the report was made. If no campus  
20 law enforcement agency has been established, the report shall be  
21 immediately forwarded to a local law enforcement agency.

22 (d) As used in this section, the following terms have the  
23 following meanings:

24 (1) "Hate crime" means any offense as described in Section  
25 422.55 of the Penal Code.

26 (2) "Local law enforcement agency" means a city or county law  
27 enforcement agency with operational responsibilities for police  
28 services in the community in which a campus is located.

29 (3) "*Part 1 violent crime*" means *willful homicide, forcible*  
30 *rape, robbery, or aggravated assault, as defined in the Uniform*  
31 *Crime Reporting Handbook of the Federal Bureau of Investigation.*

32 ~~(3)~~

33 (4) "Sexual assault" includes, but is not limited to, rape, forced  
34 sodomy, forced oral copulation, rape by a foreign object, sexual  
35 battery, or threat of sexual assault *any of these.*

36 ~~(4) "Part 1 violent crimes" means willful homicide, forcible~~  
37 ~~rape, robbery, and aggravated assault, as defined in the Uniform~~  
38 ~~Crime Reporting Handbook of the Federal Bureau of Investigation.~~

39 SEC. 3. If the Commission on State Mandates determines that  
40 this act contains costs mandated by the state, reimbursement to



1 local agencies and school districts for those costs shall be made  
2 pursuant to Part 7 (commencing with Section 17500) of Division  
3 4 of Title 2 of the Government Code.

4 SEC. 4. This act is an urgency statute necessary for the  
5 immediate preservation of the public peace, health, or safety within  
6 the meaning of Article IV of the Constitution and shall go into  
7 immediate effect. The facts constituting the necessity are:

8 In order to ensure student safety by requiring the effective  
9 reporting of Part 1 violent crimes and hate crimes, at the earliest  
10 possible time, it is necessary that this act take effect immediately.

O